

Appl. No. 08/869,275
Response accompanying RCE

REMARKS

On December 21, 2006 Applicants submitted an Amendment and Reply under 37 CFR § 1.116 and a Disclaimer of Priority. The Examiner did not enter the submitted amendments for the stated reason that they raised new issues that would require further consideration and/or search. Applicants request entry of those amendments and consideration of the accompanying remarks in conjunction with the RCE filed herewith. In addition, Applicants request further consideration of the following remarks.

In the Examiner's Advisory Action, mailed January 5, 2006, the Examiner stated that he had conducted a preliminary search that identified two references which might be applicable to the patentability of the claimed invention. The first reference, Clark et al US Patent No. 6,096,272 was issued on August 1, 2000 and has a 35 USC § 102(e) of May 23, 1997. The presently claimed invention is entitled to the priority date of parent application no 08/658,993, filed June 4, 1996. Accordingly, the Clark reference is not prior art against the presently claimed invention.

Regarding Applicants' claim to priority, the Examiner questioned whether the amended claims are entitled to the priority date of US patent application 08/658,993, filed June 4, 1996. In this regard Applicants direct the Examiner's attention to Figs. 11 and 47 of the 08/658,993 application, which are substantially the same as Figs. 11 and 21 in the present application. Furthermore, Applicants note that the text of the parent application at page 131, line 1 through page 133, line 20 discloses all of the elements of the presently claimed invention. More particularly that text specifically discloses the combination of a chamber that contains a rotatable carousel for holding a plurality of sample vessels, wherein the sample vessels are thermally cycled and optically monitored within the chamber. To assist the Examiner's review Applicants transmit herewith copies of Figs. 11 and 21 as well as copies of pages 131-133 from the 08/658,993 application (labeled as Exhibit A). Accordingly, all of the amended claims are believe to be entitled to the June 4, 1996 priority date.

The second reference identified by the Examiner's preliminary search is Schiffman et al (US Patent 5,645,748). Schiffman is directed to a microwave sterilization system for simultaneously sterilizing a multiple number of metallic surgical instruments with microwave radiation while preventing arcing (see abstract). The system contains a series of pouches for holding medical/dental tools for sterilization, wherein the pouches are mounted on a rotatable carousel. The device also contains a sensor system for monitoring the temperature of the contents of each pouch. The reference teaches that once the sterilization temperature is reached the "temperature is ideally maintained there for a period of time that will ensure sterilization of the object." (column 7, lines 42-43). Therefore, the reference fails to teach (or suggest the desirability of) a device designed for

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rapidly cycling the temperature of multiple samples, or one that includes means for fluorescent monitoring of a sample within the heated chamber. The Schiffman reference is directed to solving a problem (arcing of metallic instruments during microwave sterilization) entirely unrelated to the present invention or that disclosed in Fields (WO 95/21382). Accordingly, applicants respectfully submit there is no motivation to combine the teachings of this reference with the molecular analyzer of Fields.

The claims are believed to be in condition for allowance. Applicants respectfully request allowance of the claims, and passage of the application to issuance.

Respectfully submitted,



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